

Daily Bulletin

FRIDAY, NOV. 1, 1889.

ARRIVALS.

Nov 1—
 Steamer J. A. Cummins from Honolulu
 Steamer Waimanalo from Waimanalo and
 Waimanalo
 Steamer Mokuiki from Mokuiki

DEPARTURES.

Nov 1—
 Steamer W. G. Hall for Lahaina, Maui, and
 Kona, Kauai, and the Volcano at 10
 o'clock a.m.
 Steamer Pele for Kona ports at 11 a.m.
 Steamer C. R. Bishop for Waimanalo, Waimanalo
 and Koolau at 9 a.m.

VESSELS LEAVING TO-MORROW.
 Steamer G. N. Wilcox for Puget Sound.
 Steamer Mary Dodge for Columbia River

PASSENGERS.

For windward ports per steamer W. G. Hall Nov 1—For the Volcano: Mr. and Mrs. Roebuck, Mr. Doherty and wife, Miss A. Moore, Miss Booth, N. Gedge, E. F. Bishop, Mr. and Mrs. Murphy, Pilot Freeman, Hon. W. R. Castle, and Mr. Tenney. For way ports: H. H. Princess, Poomakalani, W. Berlowitz, E. Savidge, Col. S. Norris, Ed. Smith, Mrs. Le Claire, Geo. Duncan and wife, F. W. Halstead, Hon. J. D. Paris, W. Y. Horner and 50 deck.

For a circuit of Oahu per steamer C. R. Bishop, Nov 1—G. W. Smith, Mr. Ahrens and 20 deck.

SHIPPING NOTES.

The steamer Mary Dodge will leave to-morrow in ballast for Columbia River, Washington.

DIED.

HART—At Honolulu, Nov 1st, 1 p.m., the infant daughter of Edmund H. Hart and wife.
 Funeral from their residence, Queen street, 10 a.m., to-morrow (Saturday).

LOCAL & GENERAL NEWS.

A HORSE and carriage are offered for sale.

A DINNER is to be given Robt. W. Wilcox to-morrow.

The October term of the Supreme Court expires to-morrow by limitation.

The officers of the Honolulu Sugar Company for the ensuing year appear elsewhere.

Mr. Rosa's motion for a new trial in the Loomens case will be argued at 11 o'clock to-morrow morning.

The monthly meeting of the Honolulu Arion will be held this evening, at 7:30. Business of importance.

Last evening Mr. and Mrs. R. P. Dougherty of San Jose, gave a dinner party to a number of friends at the Hawaiian Hotel.

On Monday next Mr. N. S. Sachs of the Popular Millinery House commences his grand annual clearance sale. This will be a fine opportunity for bargains.

In the Police Court this morning a nolle proes. was entered against Enoke charged with selling spirituous liquors without a license. One drunk had to pay \$5.

Hon. F. H. Hayekeld writes that they have had some nice light rains on Lanai, that the sheep are fat and the turkeys too. That's good news for Thanksgiving day which is approaching.

The Hawaiian News Company sold a magnificent Vose cabinet grand piano this morning. On the Australia they will receive two Fischer pianos for which they are the sole agents in these islands.

The Hawaiian jury in the Wilcox case were disgusted with the manner in which their supper was served to them last evening. They say it would have come to them differently if they had been haoles.

THERE was a large crowd in attendance at the Supreme Court last evening, awaiting the verdict of the jury in the Wilcox case. They brought in a verdict of not guilty, three dissenting, at 8:03 o'clock.

The San Francisco Examiner of Sunday, October 20th, contained forty pages each of seven columns. In this number appears an article on "Our trade and shipping," from the pen of Mr. John D. Spreckels.

The band will play at the balloon ascension at Kapiolani Park to-morrow. People will require to be punctual, as there will be no unnecessary delay in getting the balloon up when inflated. The time is 3 o'clock.

The band concert at the Hawaiian Hotel last evening, in honor of the visiting planters, was a very pleasant affair. The front of the building was illuminated with lanterns and the grounds with colored electric lights.

The under-named jobs have been awarded by the Board of Education as follows: Addition to Kauluwela school, Honolulu, to P. A. Anderson; Schoolhouse at Manoa, Honolulu, to H. F. Bertelmann; Schoolhouse at Kalahele, Molokai, to Tuck Lung Chong.

Mr. W. H. Rickard claims that his language in discussing the labor question was not so strong as our report presented. Instead of saying if the Chinese prove their superiority in certain lines of work, "then let their rivals accept the inevitable," he wishes the report to be corrected so as to say, "then let them do it." As the aim was to give the ideas rather than the actual words, it is possible Mr. Rickard's sentiments were put down stronger than his language warranted, and the correction is cordially made.

OCTOBER TERM.

Prize of \$2,500 for Conspiracy
 before His Honor the Chief Justice.

AFTERNOON SESSION.

The Court resumed at 1 o'clock. At 1:55 Mr. Jones concluded the reading of the Wilcox testimony.

Robert Huapili Baker sworn, stated—I know Wilcox. I am Colonel on the King's staff. I did not carry any messages from the King to Wilcox previous to July 30th. I did not carry any messages with reference to politics. Previous to the 30th I did not take messages from the King to Wilcox telling him to hurry up with his object.

Cross-examined—I did on the 30th take a message from the King to Wilcox. Two soldiers sent by Wilcox came to my house and I went to the palace and took a message from him to the King to tell him to come up to the palace. I met the King personally, a good many people heard what passed between us. The King told me to tell Kahalewai to hold the barracks and for Parker to hold the palace to the last. When I went to the boat-house I saw some of the Ministers having conversation with the King. I delivered the message from Wilcox after the Ministers left. I saw a good many people passing between the palace and boat-house. One was Lokana, a servant of the King, do not know whether he was the bearer of any messages. Before the firing commenced anyone was allowed to enter the palace grounds. The King was not in sympathy with Wilcox's plans. I did not talk with Wilcox about them. I did not say at my house in the presence of Pahia that the King sympathized with Wilcox. Pahia and Wilcox came to my house one Sunday, as they had prepared a constitution and they thought it proper for the King to see it before anything was done. They wanted to go and see the King that day, but I told them they could not. I visited Wilcox quite often as a friend. The King did not say that he approved of Wilcox's action and that he was not to have anything to do with that hoale V. V. Ashford. I know the King told me to tell Wilcox not to go on with his object. I did not get a suitable chance to deliver the message. I told Mr. Austin when I heard of these things. Told him that Wilcox and his companions were raising a company to overthrow the Government. The Minister said he had heard the same thing. I did talk with Wilcox about organizing a Rifle Association. I was not a member. I am not afraid to say anything of this matter. I am not the only officer on the King's staff. I am supported by the King. When I went to the palace I said good morning to Wilcox, he said he wanted the King to come up and sign the new constitution, and then have it proclaimed. I do not think I said that was for our benefit. I lost my office of Governor of Maui by the new constitution of 1887. Do not recollect that I said the Ministers ought to be put out, for they were the ones that did away with the office of Governor. If the King had been in this affair I would have come and testified, I am not afraid.

The prosecution rested at 2:40 o'clock.

Mr. Rosa then made the same motion for the discharge of the defendant as in the Loomens case.

The Court overruled the motion.

A. S. Mahaulu sworn, stated—I am under arrest on a charge of conspiracy, am out on bail. Gave myself up at the Station House, Aug. 1st. Remember the affair of July 30th at the palace.

Mr. Rosa here asked the question of the witness, "Was there any firing that day?" The Attorney-General objected and the Court disallowed the question.

Mr. Rosa then said the defense rested and at 3:08 he commenced his address to the jury, speaking in Hawaiian at considerable length. He was interrupted at intervals by the Court, and cautioned as to certain remarks he was using.

Mr. Hatch commenced the address to the jury on behalf of the Crown at 4 o'clock. He said—

Gentlemen of the jury, counsel for the defense has had a good deal to say to you about your power and duties. There were repeated hints to you that you might disregard everything. What does it all amount to? Is it for you to give a verdict according to your sympathies or those of Wilcox's friends? I think there is a power to lead you and that power is your own manhood. You sit here as part of this tribunal the same as His Honor. You have a duty to perform as well as the Court. All I ask of you is to perform that duty, to weigh the evidence and listen to the Judge's charge, and find whether an offense has been committed by this defendant. You will serve your country best by weighing the evidence, much more than by giving way to your own feelings. The defendant is charged with organizing a conspiracy to use force and arms to turn out the Ministry and promulgate a new constitution. The offense is in conspiring for an illegal object and by illegal means. Who does that is guilty in this country and my country of conspiracy. It is not a question whether your sympathies are with Wilcox's objects, you have got to leave that out. It is, Will you sanction the means of arms and midnight parade-

ing to accomplish this object. The learned counsel then reviewed certain parts of the evidence referring more particularly to that given by Wilcox in the Loomens trial and which was read in Court. Mr. Hatch went on to say—What the defendant has admitted shows that he is guilty of conspiracy. If the hearts of the people from Niihau to Hawaii were with the defendant, what need was there of force? Your duty is to render a verdict on the evidence before you and the charge of the Court. It was not a question of credibility of any of the witnesses that had been on the stand. You must calmly consider the evidence presented in the case. This country cannot preserve its dignity if its laws are trod under foot. He would leave the case in their hands.

CHARGE OF THE COURT.

His Honor the Chief Justice said: Gentlemen of the jury: This important case has taken your attention since Monday of this week. It is now the evening of the fourth day the case has occupied. I cannot say that any time could have been saved, as it has been fully occupied in hearing testimony on the part of the prosecution. It is a case that has excited a great deal of attention especially on the part of the Hawaiians, as witnessed by the large audiences here from day to day, listening to the proceedings. A very unusual offense in this kingdom is charged against the defendant. It excited so much public interest that it was with very great difficulty that we succeeded in getting a jury of twelve. But I want to remind you, gentlemen, that all of you upon your oaths have told the Court and the public that you, in going into this box, had not made up your minds whether the defendant was guilty or innocent. If any of you had said positively that you had made up your minds, you would have been dismissed as were a large number of others. The time is now approaching when you must come to a conclusion. And I wish to charge you that in arriving at a decision you must be guided by what you have heard from witnesses and what you are to hear from the Court. If you are true to your responsibilities you will not be guided in your verdict by opinions of people outside. It will make no difference to you what the common people may say, or what the newspapers may say. If you do your duty according to your own consciences, that will be better approval than that of the common people. Things have been said which may have disturbed your judgment, and there is one or two of them to which I will allude.

I wish to tell you that there is no law which requires Hawaiian cases to be tried first in preference to foreigners. The rules of the Court say that the clerk shall make up the calendar, putting Hawaiian cases first and foreign afterward. That was done in this case. The Hawaiian jury cases are first on my calendar. But the Court does not direct the order of prosecutions. The Attorney-General must consult his convenience, or the accessibility of witnesses, and not rest on the convenience of the Court. And, gentlemen, it cannot make a particle of difference to you whether A is tried first, or B first, or E first. Each case must stand upon its own merits without any other consideration.

I wish to call your attention to a distinction between what are moral wrongs and what are legal wrongs. They generally coincide but not always. Now, it is the law of every country that whoever takes another person's property feloniously or improperly is guilty of a felony. That is one wrong and a crime as well. But there is no moral wrong or sin in a person's driving his carriage at night without light, but it is an offense against the statute law of this country. There is no moral wrong in storing over ten cases of kerosene in one place, but the law forbids it. All religious people think it is proper to thank God for his mercies; there is no law to forbid the neglect of the duty, however. The only offenses or wrongs of which the jury can have any cognizance are those against the Penal Code or statute laws of this kingdom. And you are not to consider, gentlemen, if a thing is plainly indicated in the law to be punishable, that it is right, or that you have a right to acquit any person against whom it is proven. And even if a person can say, having admitted that he did a certain act, that he did not know the law forbade it, that would be no excuse for him, for the law supposes that every person knows the law.

I said this was a very peculiar case. It is a very unusual case, and in this respect it is unusual, for a person like the defendant to plead on indictment that he is not guilty, after having given evidence in another case that proves him guilty of every offense which is charged in the indictment. How can the ingredients of any offense be proved, gentlemen? They can be proved by witnesses, but the strongest evidence of any kind is that given by a defendant himself. He can plead guilty or he can come on the stand and admit facts that prove him guilty. And, gentlemen, when Mr. Wilcox went on the stand in the Loomens case he was cautioned that he did not need to give evidence that would convict himself, yet he gave full particulars of all events that led up to going into the palace yard and of what was done there. Now, gentlemen, how can you undertake to acquit him on that evi-

dence? If you acquit him you will either have to say that you do not believe him, that he did not do those acts that he says he did, or, if you admit those facts to be true, that they are not an offense against the law. I only remind you, gentlemen, that you told me and told the public that you would take heed and pay attention to the instructions of the Court in regard to the law. I say that in order to obey the instructions of the Court you will have to convict the defendant, for he has admitted to you that he has formed a secret conspiracy to repeal the general law—that is, the Constitution—and overturn the Ministry by the show of force. He told you that he gathered that force together, eighty in number, afterward increased by acquisitions at the Palace, and all armed. But he tells you that he did not intend to use force unless he was resisted. Suppose a man is charged with robbing a mail coach: you know how they do in California. They stand in front of the horses and order the driver to "stand and deliver," and the occupants of the coach throw up their hands. Not a shot is fired but the driver lets the robbers take the silver and then they drive on. Suppose the robber should be overtaken, caught and put on trial, and that he should say, "Oh, I had a pistol but I did not intend to use it unless I was attacked." Every judge would tell the man that that was robbery because it was an attempt to get the silver by force.

You see, gentlemen, Mr. Wilcox says that these were not Quaker guns, not wooden guns, but real guns loaded that they could be fired. He also tells you that the rifles, about 30 of them, were loaded right there at the Palace gate when they were told that the gates were shut. Does not that show you, gentlemen, that the object was to get the Constitution by a show of force, and it makes no difference that they intended only to make a show of force. I want to put it very clearly to you because I do not want you to make any mistakes. I will give you another illustration. Suppose a man should be charged with burglary and he put in a plea of not guilty. Notwithstanding, he goes on the stand and says: "I went into A. B.'s store, pried the door open with a chisel, and took a bag of money from Smith's drawer. On my way down from my house I saw a policeman, and I was afraid he would take me, and so I threatened him and made him come along with me." Why, that jury certainly would convict that burglar although he said he was not guilty. Now, suppose the burglar said more than that. He says: "I took the money but I am a poor man and Smith is a rich man. I wanted that money for the schooling of my children, so I took it." Suppose he said more than that—that he was suffering from want of food, and that he had not money enough to buy his children bread, which was the reason he took that money. He would nevertheless be guilty under the law although his distress would call loudly for mercy. So, gentlemen, the mere effort of idea, as to whether this is right or wrong, must not enter into this case at all, but whether the law was broken. If the question arises that a law is wrong—for instance, that people should have lights on their carriages—would it be proper to organize a force of men to go down to the Marshal to prevent him enforcing the law, or would it not be better to go to the Legislature and get the repeal of the law?

I do not wonder, gentlemen, that Hawaiians are proud of their country; I am proud of my country. But we want to preserve our institutions; we want to preserve the reign of law; we want to secure justice; we want honesty in every department of the Government. No more is honesty required of me as a judge than of you as jurors. What would you think of me, gentlemen, if I refused to approve of an indictment if it was my friend that was charged with an offense? I should deserve to be impeached and driven from my office if I should do such a thing as that. Now, gentlemen, we expect you to do your duty. It may be a very severe struggle with you; I do not think it will though.

I also say this: it will make no difference so far as the law is concerned whether His Majesty was a party to this conspiracy or not, or whether he approved of it or not. The Legislature passes the law of this country and His Majesty approves or disapproves of them. From 1840 down no King has had the power to make law by the word of his mouth. I put a very severe illustration but I want you to understand it fully. Suppose the King—any king of this country—should engage with other persons to commit a very serious crime, say murder. The King cannot be tried because the law says the King can do no wrong. The man, however, who committed the crime can be tried and punished. But the Court is well aware of those mitigating circumstances—I do not say whether they apply to Mr. Wilcox with his education, but they do to those native Hawaiians led by him. Still, after sixty or seventy years of civilization, education and Christianity, no native Hawaiian need say that "what I have done, although against the law of this kingdom, is right because the King has done it." So, gentlemen, leave it out of the case, do not consider it, it makes no difference in this case whether you believe it or not.

Gentlemen of the jury, I have no doubt you are quite weary and I do not know whether it is necessary for me to say more. The eyes of this community are fixed upon you. Many of you are in this capacity for the first time in your lives. I believe none of you are otherwise than industrious laboring men who earn your own livings. And I have no doubt that you will pay regard, as you have promised, to all that I have said, remembering that there is no evidence on the part of the defense, and that you will return a verdict in accordance with these instructions. Because, gentlemen, it makes no difference at all whether you regret that Mr. Wilcox was unsuccessful in making the new Constitution that he wrote the law of the land. Your own ideas of that action should not weigh with you, because an act of that kind is against the law of the Hawaiian Kingdom.

Mr. Rosa took exception to that portion of the charge calling attention to the absence of evidence for the defense, he claiming to have been assured that this fact would not be used against the defendant.

The Court—I may say that the facts that the Crown attempted to prove are not disputed by any evidence offered by the defense.

Mr. Rosa also excepted to that portion which hopes that the jury would return a verdict in accordance with the instructions of the Court.

The Court saw no reason for withdrawing the portions to which exception was taken.

THE VERDICT.

The jury retired to consider their verdict at 5:50. At 8:03 they returned into Court with a verdict of not guilty, three dissenting.

At 8:07 the Court adjourned to 10 o'clock Friday morning.

FRIDAY, Nov. 1st.

The Court opened at 10 a.m. Attorney-General Ashford moved that the case of B. H. Kahanaui, Hiram Kaaha and A. S. Mahaulu, conspiracy, be placed on the native jury calendar. He said he was ready to present an indictment.

The indictment was then read and translated to the defendants.

J. L. Kaulukou said he appeared for Kaaha and moved that his plea be postponed to the next term. The Government had hinted that it intended to be lenient in these cases.

The Attorney-General said that by the presentation of this indictment it was evidence the Government did not propose to stop in the matter.

The Court—When counsel asks for time to plead it is generally for the purpose of examining the indictment. In this case there had been plenty of time. The indictment was in the same form as those already presented and Mr. Kaulukou had plenty of time to confer with his client since July. The case could not be tried this term, as the Court closed to-morrow. The defendants are out on bail. I will ask them to plead.

All three then pleaded not guilty. The Attorney-General moved that the case be continued for the term which was granted.

The Court said that all those indicted for conspiracy and riot would be required to attend in Court at 1 p.m.

The Court then took a recess to 1 o'clock.

AFTERNOON SESSION.

The Court resumed at 1 o'clock. The seven defendants in the riot and conspiracy cases who had been confined in prison unable to obtain bail, were brought up, and the Court fixed the bail at \$100. All the cases connected with this affair, not heard, were continued to next term.

Ho Fon was then arraigned before the bar to receive sentence for conspiracy, of which he had been found guilty.

Mr. Neumann moved for an arrest of judgment.

Attorney-General Ashford said it was a very serious offense and there was not a great deal in the case to appeal for mercy. Ho Fon is a young man with a wife and two children, and he hoped he would take the lesson of this occasion to heart, and it would have a permanent benefit on him during his life.

His Honor said it was impossible to estimate how much this "rocket" of Wilcox's had done towards injuring the good name of the country and disturbing values. If this country had more revolutions no new enterprises could be started. This disturbance was started by people discontented, out of employment and without money. They got money and he believed from the evidence that the Chinese furnished it. Ho Fon acted as a kind of agent for the Chinese, he was a foolish boy and had got into a bad scrape. He would fine him \$250.

Mr. Neumann withdrew his motion for arrest of judgment.

J. M. Poejoe was brought up for sentence for conspiracy.

The Attorney-General said Poejoe had forfeited any special claim for mercy in the way he had shifted, edged and fenced in giving his evidence in the Wilcox case, instead of assisting the prosecution.

His Honor gave quite a lecture to Poejoe and then fined him \$400.

James Kaulane, who pleaded guilty for conspiracy was fined \$100, and David Kaapa for riot \$25.

At 2:05 the Court adjourned to 10 o'clock Saturday morning.

THE DAILY BULLETIN—The most popular paper published.

OPINIONS - OF - THE - PRESS

ON THE

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OF THE

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OF THE UNITED STATES

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[From the NEW YORK TIMES, June 22, 1889.]

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[From the CHICAGO INVESTIGATOR.]

Always on the alert, and ever anxious to give the public the most advantageous contract in life insurance, the Equitable Life Assurance Society of New York has, in the past, made many advances on old methods and has been the means to liberalize life insurance in a greater degree perhaps, than any other organization. It is not at all surprising, therefore, that this great company now comes before the people with a new contract, the like of which has not before been known in life insurance.

[From the KENTUCKY REGISTER, Richmond, Ky., June 26, 1889.]

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[From the BOSTON POST.]

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[From the PACIFIC UNDERWRITER, San Francisco, July 1, 1889.]

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